

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JIMMY LEE SAWNEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-368-KEW
)	
KILOLO KIJAKAZI, Acting)	
COMMISSIONER OF THE SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant.)	

FINDINGS AND RECOMMENDATION

Plaintiff commenced this case on December 14, 2021 with the filing of the Complaint, seeking judicial review of the adverse administrative decision denying benefits. On the same date, Plaintiff filed a Motion for Leave to Proceed *In Forma Pauperis*. On December 17, 2021, this Court entered a minute order setting out the deficiencies in Plaintiff's Motion and requiring that he "submit a notarized, Amended Motion with the required information no later than JANUARY 6, 2022." Nothing was filed by Plaintiff.

On February 1, 2022, this Court entered the following minute order:

By minute order entered December 17, 2021, this Court directed Plaintiff to file an Amended Motion seeking leave to proceed in forma pauperis in this case with additional financial information. To date, Plaintiff has failed to comply with this Order. As a result, Plaintiff shall show cause in writing as to why he has failed to comply with this Court's directive or submit Amended Motion no later

than FEBRUARY 11, 2022. The failure to comply with this Order shall result in the reassignment of this case to a United States District Judge and the entry of a Report and Recommendation, recommending that the IFP motion be denied.

On February 7, 2022, Plaintiff's counsel filed a Response to Order to Show Cause. He stated that "[m]ultiple attempts to contact the Plaintiff for an amended form have been made without success." As a result, Plaintiff's counsel admitted Plaintiff "failed to comply with the court's order and this matter is subject to dismissal."

Dismissal for the failure to prosecute is discretionary based upon the circumstances presented. Fed. R. Civ. P. 41(b); United States v. Berney, 713 F.2d 568, 571 (10th Cir. 1983). Dismissal under Rule 41(b) is viewed as an imposition of a sanction. Mobley v. McCormick, 40 F.3d 337, 340 (10th Cir. 1994). In this case, Plaintiff has provided no explanation for his failure to comply with this Court's Order or to prosecute this action. Consequently, dismissal is appropriate.

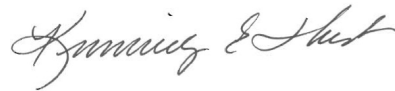
IT IS THEREFORE THE RECOMMENDATION OF THIS COURT that this case be **DISMISSED** for Plaintiff's failure to comply with this Court's Order and to prosecute this action. Plaintiff's counsel is directed to serve a copy of these Findings and Recommendation upon Plaintiff by return receipt mail at his last known address

and file proof of that service within five (5) days.

IT IS ORDERED that the Clerk reassign this case to a United States District Judge.

The parties are advised that they may object to these Findings and Recommendation within fourteen (14) days after receipt. The failure to file exceptions or objections to the Findings and Recommendation within this time may be deemed a confession of their content and result in the affirmation and adoption of them without further notice or hearing. 28 U.S.C. § 636(b) (1); Fed. R. Civ. P. 72(b) .

IT IS SO ORDERED this 19th day of April, 2022.



KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE